

Adopted	Rejected
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## COMMITTEE REPORT

YES:	11
NO:	0

### MR. SPEAKER:

*Your Committee on* Judiciary, to which was referred Senate Bill 78, has had the same under consideration and begs leave to report the same back to the House with the recommendation that said bill **be amended** as follows:

- 1           Page 4, between lines 3 and 4, begin a new paragraph and insert:
- 2           "SECTION 4. IC 27-8-5-22 IS AMENDED TO READ AS
- 3           FOLLOWS [EFFECTIVE JULY 1, 2008]: Sec. 22. (a) All individual
- 4           policies of accident and sickness insurance issued for delivery in
- 5           Indiana after June 30, 1990, must provide for the refund of unused
- 6           premiums upon the death of the insured during the contract period.
- 7           (b) The amount of premium refund shall be prorated from the date
- 8           following the date of death of the insured to the end of the contract
- 9           period for which the premium has been paid.
- 10          (c) The refund required by this section shall be paid as follows:
- 11           (1) If a person other than the insured paid the premium, to that
- 12           person. A person entitled to a refund under this subdivision must
- 13           furnish proof of payment to the insurer.
- 14           (2) If the insured paid the premium, to the surviving spouse of the
- 15           insured. If there is no surviving spouse, the premium shall be paid
- 16           in the same manner as distributions of the net estate of a person

1 who dies intestate under IC 29-1-2-1(d). **A parent disqualified**  
 2 **under IC 29-1-2-1(e) from receiving an intestate share of the**  
 3 **parent's child's estate is not entitled to a refund under this**  
 4 **section of insurance premiums paid by the child.**

5 (d) A person entitled to receive a refund under this section must do  
 6 the following:

- 7 (1) Submit a written request for the refund.
- 8 (2) Furnish proof of the insured's death.

9 (e) This section does not affect the rights of a dependent under a  
 10 policy covered by this section to obtain a conversion policy upon the  
 11 death of the insured.

12 SECTION 5. IC 29-1-2-1, AS AMENDED BY P.L.61-2006,  
 13 SECTION 1, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE  
 14 JULY 1, 2008]: Sec. 1. (a) The estate of a person dying intestate shall  
 15 descend and be distributed as provided in this section.

16 (b) Except as otherwise provided in subsection (c), the surviving  
 17 spouse shall receive the following share:

- 18 (1) One-half (1/2) of the net estate if the intestate is survived by  
 19 at least one (1) child or by the issue of at least one (1) deceased  
 20 child.
- 21 (2) Three-fourths (3/4) of the net estate, if there is no surviving  
 22 issue, but the intestate is survived by one (1) or both of the  
 23 intestate's parents.
- 24 (3) All of the net estate, if there is no surviving issue or parent.

25 (c) If the surviving spouse is a second or other subsequent spouse  
 26 who did not at any time have children by the decedent, and the  
 27 decedent left surviving the decedent a child or children or the  
 28 descendants of a child or children by a previous spouse, the surviving  
 29 second or subsequent childless spouse shall take only an amount equal  
 30 to twenty-five percent (25%) of the remainder of:

- 31 (1) the fair market value as of the date of death of the real  
 32 property of the deceased spouse; minus
- 33 (2) the value of the liens and encumbrances on the real property  
 34 of the deceased spouse.

35 The fee shall, at the decedent's death, vest at once in the decedent's  
 36 surviving child or children, or the descendants of the decedent's child  
 37 or children who may be dead. A second or subsequent childless spouse  
 38 described in this subsection shall, however, receive the same share of

1 the personal property of the decedent as is provided in subsection (b)  
2 with respect to surviving spouses generally.

3 (d) The share of the net estate not distributable to the surviving  
4 spouse, or the entire net estate if there is no surviving spouse, shall  
5 descend and be distributed as follows:

6 (1) To the issue of the intestate, if they are all of the same degree  
7 of kinship to the intestate, they shall take equally, or if of unequal  
8 degree, then those of more remote degrees shall take by  
9 representation.

10 (2) **Except as provided in subsection (e)**, if there is a surviving  
11 spouse but no surviving issue of the intestate, then to the  
12 surviving parents of the intestate.

13 (3) **Except as provided in subsection (e)**, if there is no surviving  
14 spouse or issue of the intestate, then to the surviving parents,  
15 brothers, and sisters, and the issue of deceased brothers and  
16 sisters of the intestate. Each living parent of the intestate shall be  
17 treated as of the same degree as a brother or sister and shall be  
18 entitled to the same share as a brother or sister. However, the  
19 share of each parent shall be not less than one-fourth (1/4) of the  
20 decedent's net estate. Issue of deceased brothers and sisters shall  
21 take by representation.

22 (4) If there is no surviving parent or brother or sister of the  
23 intestate, then to the issue of brothers and sisters. If the  
24 distributees described in this subdivision are all in the same  
25 degree of kinship to the intestate, they shall take equally or, if of  
26 unequal degree, then those of more remote degrees shall take by  
27 representation.

28 (5) If there is no surviving issue or parent of the intestate or issue  
29 of a parent, then to the surviving grandparents of the intestate  
30 equally.

31 (6) If there is no surviving issue or parent or issue of a parent, or  
32 grandparent of the intestate, then the estate of the decedent shall  
33 be divided into that number of shares equal to the sum of:

34 (A) the number of brothers and sisters of the decedent's  
35 parents surviving the decedent; plus

36 (B) the number of deceased brothers and sisters of the  
37 decedent's parents leaving issue surviving both them and the  
38 decedent;

1 and one (1) of the shares shall pass to each of the brothers and  
 2 sisters of the decedent's parents or their respective issue per  
 3 stirpes.

4 (7) If interests in real estate go to a husband and wife under this  
 5 subsection, the aggregate interests so descending shall be owned  
 6 by them as tenants by the entireties. Interests in personal property  
 7 so descending shall be owned as tenants in common.

8 (8) If there is no person mentioned in subdivisions (1) through  
 9 (7), then to the state.

10 **(e) A parent may not receive an intestate share of the estate of**  
 11 **the parent's minor or adult child if:**

12 **(1) the parent was convicted while the child was alive of:**

13 **(A) murder (IC 35-42-1-1) or voluntary manslaughter**  
 14 **(IC 35-42-1-3) in Indiana; or**

15 **(B) a crime in any other jurisdiction in which the elements**  
 16 **of the crime are substantially similar to the elements of**  
 17 **murder or voluntary manslaughter; and**

18 **(2) the victim of the crime is the other parent of the child.**

19 **If a parent is disqualified from receiving an intestate share under**  
 20 **this subsection, the estate of the deceased child shall be distributed**  
 21 **as though the parent had predeceased the child."**

22 Page 6, line 35, delete "terminated," and insert "**terminated**".

23 Renumber all SECTIONS consecutively.

(Reference is to SB 78 as reprinted January 23, 2008.)

**and when so amended that said bill do pass.**

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Representative Lawson L